



22 CFR Part 126

[Public Notice: 11537]

RIN: 1400-AF36

International Traffic in Arms Regulations: Temporary Update to Republic of Cyprus (Cyprus) Country Policy; Extension of Effective Period

AGENCY: Department of State.

ACTION: Temporary final rule; extension of effective period.

SUMMARY: The Department of State is extending the effective period of the International Traffic in Arms Regulations (ITAR) temporary modification to allow the temporary removal of prohibitions on exports, reexports, retransfers, and temporary imports of non-lethal defense articles and defense services destined for or originating in the Republic of Cyprus (Cyprus) through September 30, 2022, unless modified.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], the expiration date of the temporary final rule published on September 28, 2020 (85 FR 60698), is extended through September 30, 2022.

FOR FURTHER INFORMATION CONTACT: Sarah Heidema, Office of Defense Trade Controls Policy, Department of State, telephone (202) 663-2809, or e-mail deccspmdtcc@midatl.service-now.com. ATTN: Regulatory Change, ITAR Section 126.1 Cyprus Country Policy Update.

SUPPLEMENTARY INFORMATION: Section 1250A(d) of the National Defense Authorization Act for Fiscal Year 2020 (P.L. 116-92) and § 205(d) of the Eastern Mediterranean Security and Energy Act (Div. J. P.L. 116-94) (hereinafter “the Acts”) provide that the policy of denial for exports, reexports, or transfers of defense articles on the United States Munitions List (USML) to Cyprus shall remain in place unless the President determines and certifies to the appropriate Congressional Committees not less than annually that: (A) Cyprus is continuing to

cooperate with the U.S. Government in anti-money laundering reforms; and (B) Cyprus has taken the steps necessary to deny Russian military vessels access to ports for refueling and servicing. These provisions further provide that the President may waive these limitations for one fiscal year if the President determines that it is essential to the national security interests of the United States to do so.

On April 14, 2020, the President delegated to the Secretary of State the functions and authorities vested in the President by the Acts (85 FR 35797). On May 28, 2021, the Secretary of State, exercising this delegated authority, determined that it was essential to the national security interest of the United States to waive the limitations on non-lethal defense articles and defense services destined for or originating in Cyprus. On September 28, 2020, the Department of State published a temporary rule (RIN 1400-AF14) in the *Federal Register*, amending the ITAR to update defense trade policy toward the Republic of Cyprus by temporarily removing prohibitions on exports, reexports, retransfers, and temporary imports of non-lethal defense articles and defense services destined for or originating in Cyprus. This rule was effective on October 1, 2020, and expires on September 30, 2021.

On May 28, 2021, again utilizing these delegated functions and authorities, the Secretary of State determined that it is essential to the national security interest of the United States to maintain the temporary removal of restrictions on the export, reexport, retransfer, and temporary import of non-lethal defense articles and defense services destined for or originating in Cyprus. This determination requires the Department to extend the effective period of the temporarily modified text of ITAR § 126.1(r), which specifies the circumstances provided in the Acts in which the policy of denial for exports, reexports, retransfers, and temporary import of non-lethal defense articles and defense services destined for or originating in the Republic of Cyprus will not apply.

EXTENSION

The expiration date of the temporary final rule will remain in effect through September 30, 2022, unless modified.

REGULATORY ANALYSIS AND NOTICES

Administrative Procedure Act

The Department of State is of the opinion that controlling the import and export of defense articles and services is a military or foreign affairs function of the United States Government and that rules implementing this function are exempt from sections 553 (rulemaking) and 554 (adjudications) of the Administrative Procedure Act. Since this temporary rule is exempt from 5 U.S.C. 553, the provisions of § 553(d) do not apply to this rulemaking. Therefore, this temporary rule is effective upon publication.

Regulatory Flexibility Act

Since this temporary rule is exempt from the provisions of 5 U.S.C. 553, there is no requirement for an analysis under the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

This rulemaking does not involve a mandate that will result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

This amendment has been found not to be a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996.

Executive Orders 12372 and 13132

This rulemaking will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, the Department has determined that this rulemaking does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this rulemaking.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributed impacts, and equity). These executive orders stress the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Because the scope of this temporary rule implements a governmental policy increasing defense trade with a country, and does not impose additional regulatory requirements or obligations on the public, the Department believes costs associated with this temporary rule will be minimal. The Department also finds that any costs of this rulemaking do not outweigh the foreign policy benefits, as described in the preamble. This rule has been designated non-significant by the Office of Information and Regulatory Affairs under Executive Order 12866 Sec. 3(d)(2).

Executive Order 12988

The Department of State reviewed this rulemaking in light of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13175

The Department of State determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments,

and will not preempt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Paperwork Reduction Act

This temporary rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

Bonnie D. Jenkins,

Under Secretary for Arms Control and International Security,

Department of State.

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